

--H.R.5419--

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***One Hundred Eighth Congress
of the***

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,
the twentieth day of January, two thousand and four

An Act

To amend the National Telecommunications and Information Administration
Organization Act to

facilitate the reallocation of spectrum from governmental to commercial users; to
improve, enhance, and

promote the Nation's homeland security, public safety, and citizen activated
emergency response

capabilities through the use of enhanced 911 services, to further upgrade Public
Safety Answering Point

capabilities and related functions in receiving E-911 calls, and to support in the
construction and

operation of a ubiquitous and reliable citizen activated system; and to provide
that funds received as

universal service contributions under section 254 of the Communications Act of
1934 and the universal

service support programs established pursuant thereto are not subject to certain
provisions of title 31,

United States Code, commonly known as the Antideficiency Act, for a period of
time.

*Be it enacted by the Senate and House of Representatives of the United States
of America in*

Congress assembled,

TITLE I--E-911

SEC. 101. SHORT TITLE.

This title may be cited as the 'Ensuring Needed Help Arrives Near Callers
Employing 911 Act of

2004' or the 'ENHANCE 911 Act of 2004'.

SEC. 102. FINDINGS.

The Congress finds that--

(1) for the sake of our Nation's homeland security and public safety, a universal
emergency

telephone number (911) that is enhanced with the most modern and state-of-the-
art

telecommunications capabilities possible should be available to all citizens in all
regions of

the Nation;

(2) enhanced emergency communications require Federal, State, and local
government

resources and coordination;

(3) any funds that are collected from fees imposed on consumer bills for the purposes of funding 911 services or enhanced 911 should go only for the purposes for which the funds

are collected; and

(4) enhanced 911 is a high national priority and it requires Federal leadership, working in

cooperation with State and local governments and with the numerous organizations

dedicated to delivering emergency communications services.

SEC. 103. PURPOSES.

The purposes of this title are--

(1) to coordinate 911 services and E-911 services, at the Federal, State, and local levels; and

(2) to ensure that funds collected on telecommunications bills for enhancing emergency 911

services are used only for the purposes for which the funds are being collected.

SEC. 104. COORDINATION OF E-911 IMPLEMENTATION.

Part C of title I of the National Telecommunications and Information Administration Organization

Act (47 U.S.C. 901 et seq.) is amended by adding at the end the following:

`SEC. 158. COORDINATION OF E-911 IMPLEMENTATION.

`(a) E-911 IMPLEMENTATION COORDINATION OFFICE-

`(1) ESTABLISHMENT- The Assistant Secretary and the Administrator of the National

Highway Traffic Safety Administration shall--

`(A) establish a joint program to facilitate coordination and communication between

Federal, State, and local emergency communications systems, emergency personnel,

public safety organizations, telecommunications carriers, and telecommunications

equipment manufacturers and vendors involved in the implementation of E-911 services; and

`(B) create an E-911 Implementation Coordination Office to implement the provisions of this section.

`(2) MANAGEMENT PLAN- The Assistant Secretary and the Administrator shall jointly

develop a management plan for the program established under this section.

Such plan shall

include the organizational structure and funding profiles for the 5-year duration of the

program. The Assistant Secretary and the Administrator shall, within 90 days after the date

of enactment of this Act, submit the management plan to the Committees on Energy and

Commerce and Appropriations of the House of Representatives and the Committees on

Commerce, Science, and Transportation and Appropriations of the Senate.

`(3) PURPOSE OF OFFICE- The Office shall--

`(A) take actions, in concert with coordinators designated in accordance with subsection (b)(3)(A)(ii), to improve such coordination and communication;

`(B) develop, collect, and disseminate information concerning practices, procedures,

and technology used in the implementation of E-911 services;

`(C) advise and assist eligible entities in the preparation of implementation plans required under subsection (b)(3)(A)(iii);

`(D) receive, review, and recommend the approval or disapproval of applications for

grants under subsection (b); and

`(E) oversee the use of funds provided by such grants in fulfilling such implementation plans.

`(4) REPORTS- The Assistant Secretary and the Administrator shall provide a joint annual

report to Congress by the first day of October of each year on the activities of the Office to

improve coordination and communication with respect to the implementation of E-911

services.

`(b) PHASE II E-911 IMPLEMENTATION GRANTS-

`(1) MATCHING GRANTS- The Assistant Secretary and the Administrator, after consultation with the Secretary of Homeland Security and the Chairman of the Federal

Communications Commission, and acting through the Office, shall provide grants to

eligible entities for the implementation and operation of Phase II E-911 services.

`(2) MATCHING REQUIREMENT- The Federal share of the cost of a project eligible for a

grant under this section shall not exceed 50 percent. The non-Federal share of the cost shall

be provided from non-Federal sources.

`(3) COORDINATION REQUIRED- In providing grants under paragraph (1), the Assistant

Secretary and the Administrator shall require an eligible entity to certify in its application

that--

`(A) in the case of an eligible entity that is a State government, the entity--

`(i) has coordinated its application with the public safety answering points (as such term is defined in section 222(h)(4) of the Communications Act of 1934) located within the jurisdiction of such entity;

`(ii) has designated a single officer or governmental body of the entity to serve as the coordinator of implementation of E-911 services, except that such designation need not vest such coordinator with direct legal authority to implement E-911 services or manage emergency communications operations;

`(iii) has established a plan for the coordination and implementation of E-911 services; and

`(iv) has integrated telecommunications services involved in the implementation and delivery of phase II E-911 services; or

`(B) in the case of an eligible entity that is not a State, the entity has complied with

clauses (i), (iii), and (iv) of subparagraph (A), and the State in which it is located has

complied with clause (ii) of such subparagraph.

`(4) CRITERIA- The Assistant Secretary and the Administrator shall jointly issue regulations within 180 days after the date of enactment of the ENHANCE 911 Act of 2004,

after a public comment period of not less than 60 days, prescribing the criteria for selection

for grants under this section, and shall update such regulations as necessary.

The criteria

shall include performance requirements and a timeline for completion of any project to be

financed by a grant under this section.

`(c) DIVERSION OF E-911 CHARGES-

`(1) DESIGNATED E-911 CHARGES- For the purposes of this subsection, the term

`designated E-911 charges' means any taxes, fees, or other charges imposed by a State or

other taxing jurisdiction that are designated or presented as dedicated to deliver or improve

E-911 services.

`(2) CERTIFICATION- Each applicant for a matching grant under this section shall certify

to the Assistant Secretary and the Administrator at the time of application, and each

applicant that receives such a grant shall certify to the Assistant Secretary and the

Administrator annually thereafter during any period of time during which the funds from

the grant are available to the applicant, that no portion of any designated E-911 charges

imposed by a State or other taxing jurisdiction within which the applicant is located are

being obligated or expended for any purpose other than the purposes for which such charges

are designated or presented during the period beginning 180 days immediately preceding the date of the application and continuing through the period of time during which the funds from the grant are available to the applicant.

`(3) CONDITION OF GRANT- Each applicant for a grant under this section shall agree, as a condition of receipt of the grant, that if the State or other taxing jurisdiction within which the applicant is located, during any period of time during which the funds from the grant are available to the applicant, obligates or expends designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented, all of the funds from such grant shall be returned to the Office.

`(4) PENALTY FOR PROVIDING FALSE INFORMATION- Any applicant that provides a certification under paragraph (1) knowing that the information provided in the certification was false shall--

`(A) not be eligible to receive the grant under subsection (b);

`(B) return any grant awarded under subsection (b) during the time that the certification was not valid; and

`(C) not be eligible to receive any subsequent grants under subsection (b).

`(d) AUTHORIZATION; TERMINATION-

`(1) AUTHORIZATION- There are authorized to be appropriated to the Department of

Transportation, for the purposes of grants under the joint program operated under this

section with the Department of Commerce, not more than \$250,000,000 for each of the

fiscal years 2005 through 2009, not more than 5 percent of which for any fiscal year may be

obligated or expended for administrative costs.

`(2) TERMINATION- The provisions of this section shall cease to be effective on October 1, 2009.

`(e) DEFINITIONS- As used in this section:

`(1) OFFICE- The term 'Office' means the E-911 Implementation Coordination Office.

`(2) ADMINISTRATOR- The term 'Administrator' means the Administrator of the National Highway Traffic Safety Administration.

`(3) ELIGIBLE ENTITY-

`(A) IN GENERAL- The term 'eligible entity' means a State or local government or a

tribal organization (as defined in section 4(l) of the Indian Self-Determination and

Education Assistance Act (25 U.S.C. 450b(l))).

`(B) INSTRUMENTALITIES- Such term includes public authorities, boards, commissions, and similar bodies created by one or more eligible entities described in

subparagraph (A) to provide E-911 services.

`(C) EXCEPTION- Such term does not include any entity that has failed to submit the most recently required certification under subsection (c) within 30 days after the date on which such certification is due.

`(4) E-911 SERVICES- The term `E-911 services' means both phase I and phase II

enhanced 911 services, as described in section 20.18 of the Commission's regulations (47

C.F.R. 20.18), as in effect on the date of enactment of the ENHANCE 911 Act of 2004, or

as subsequently revised by the Federal Communications Commission.

`(5) Phase ii e-911 services- The term `phase II E-911 services' means only phase II

enhanced 911 services, as described in such section 20.18 (47 C.F.R. 20.18), as in effect on

such date, or as subsequently revised by the Federal Communications Commission.

`(6) STATE- The term `State' means any State of the United States, the District of

Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.'

SEC. 105. GAO STUDY OF STATE AND LOCAL USE OF 911 SERVICE CHARGES.

(a) IN GENERAL- Within 60 days after the date of enactment of this Act, the Comptroller

General shall initiate a study of--

(1) the imposition of taxes, fees, or other charges imposed by States or political subdivisions

of States that are designated or presented as dedicated to improve emergency communications services, including 911 services or enhanced 911 services, or related to

emergency communications services operations or improvements; and

(2) the use of revenues derived from such taxes, fees, or charges.

(b) REPORT- Within 18 months after initiating the study required by subsection (a), the

Comptroller General shall transmit a report on the results of the study to the Senate Committee on

Commerce, Science, and Transportation and the House of Representatives Committee on Energy

and Commerce setting forth the findings, conclusions, and recommendations, if any, of the study, including--

(1) the identity of each State or political subdivision that imposes such taxes, fees, or other charges; and

(2) the amount of revenues obligated or expended by that State or political subdivision for

any purpose other than the purposes for which such taxes, fees, or charges were designated

or presented.

SEC. 106. REPORT ON THE DEPLOYMENT OF E-911 PHASE II SERVICES BY TIER III SERVICE PROVIDERS.

Within 90 days after the date of enactment of this Act, the Federal Communications Commission

shall submit a report to the Committee on Energy and Commerce of the House of Representatives

and the Committee on Commerce, Science, and Transportation of the Senate detailing--

(1) the number of tier III commercial mobile service providers that are offering phase II E-

911 services;

(2) the number of requests for waivers from compliance with the Commission's phase II E-

911 service requirements received by the Commission from such tier III providers;

(3) the number of waivers granted or denied by the Commission to such tier III providers;

(4) how long each waiver request remained pending before it was granted or denied;

(5) how many waiver requests are pending at the time of the filing of the report;

(6) when the pending requests will be granted or denied;

(7) actions the Commission has taken to reduce the amount of time a waiver request

remains pending; and

(8) the technologies that are the most effective in the deployment of phase II E-911 services

by such tier III providers.

SEC. 107. FCC REQUIREMENTS FOR CERTAIN TIER III CARRIERS.

(a) IN GENERAL- The Federal Communications Commission shall act on any petition filed by a

qualified Tier III carrier requesting a waiver of compliance with the requirements of section 20.18

(g)(1)(v) of the Commission's rules (47 C.F.R. 20.18(g)(1)(v)) within 100 days after the

Commission receives the petition. The Commission shall grant the waiver of compliance with the requirements of section 20.18(g)(1)(v) of the Commission's rules (47 C.F.R. 20.18(g)(1)(v))

requested by the petition if it determines that strict enforcement of the requirements of that section

would result in consumers having decreased access to emergency services.

(b) QUALIFIED TIER III CARRIER DEFINED- In this section, the term `qualified Tier III

carrier' means a provider of commercial mobile service (as defined in section 332(d) of the

Communications Act of 1934 (47 U.S.C. 332(d)) that had 500,000 or fewer subscribers as of

December 31, 2001.

TITLE II--SPECTRUM RELOCATION

SEC. 201. SHORT TITLE.

This title may be cited as the `Commercial Spectrum Enhancement Act'.

SEC. 202. RELOCATION OF ELIGIBLE FEDERAL ENTITIES FOR THE

REALLOCATION OF SPECTRUM FOR COMMERCIAL PURPOSES.

Section 113(g) of the National Telecommunications and Information Administration Organization

Act (47 U.S.C. 923(g)) is amended by striking paragraphs (1) through (3) and inserting the following:

`(1) ELIGIBLE FEDERAL ENTITIES- Any Federal entity that operates a Federal Government station assigned to a band of frequencies specified in paragraph (2) and that

incurs relocation costs because of the reallocation of frequencies from Federal use to non-

Federal use shall receive payment for such costs from the Spectrum Relocation Fund, in

accordance with section 118 of this Act. For purposes of this paragraph, Federal power

agencies exempted under subsection (c)(4) that choose to relocate from the frequencies

identified for reallocation pursuant to subsection (a), are eligible to receive payment under

this paragraph.

`(2) ELIGIBLE FREQUENCIES- The bands of eligible frequencies for purposes of this

section are as follows:

`(A) the 216-220 megahertz band, the 1432-1435 megahertz band, the 1710-1755

megahertz band, and the 2385-2390 megahertz band of frequencies; and

`(B) any other band of frequencies reallocated from Federal use to non-Federal use after January 1, 2003, that is assigned by competitive bidding pursuant to section 309

(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), except for bands of frequencies previously identified by the National Telecommunications and Information Administration in the Spectrum Reallocation Final Report, NTIA Special Publication 95-32 (1995).

`(3) DEFINITION OF RELOCATION COSTS- For purposes of this subsection, the term

`relocation costs' means the costs incurred by a Federal entity to achieve comparable capability of systems, regardless of whether that capability is achieved by relocating to a new frequency assignment or by utilizing an alternative technology. Such costs include--

`(A) the costs of any modification or replacement of equipment, software, facilities, operating manuals, training costs, or regulations that are attributable to relocation;

`(B) the costs of all engineering, equipment, software, site acquisition and construction costs, as well as any legitimate and prudent transaction expense, including outside consultants, and reasonable additional costs incurred by the Federal entity that are attributable to relocation, including increased recurring costs associated with the replacement facilities;

`(C) the costs of engineering studies, economic analyses, or other expenses reasonably incurred in calculating the estimated relocation costs that are provided to the Commission pursuant to paragraph (4) of this subsection;

`(D) the one-time costs of any modification of equipment reasonably necessary to accommodate commercial use of such frequencies prior to the termination of the Federal entity's primary allocation or protected status, when the eligible frequencies as defined in paragraph (2) of this subsection are made available for private sector

uses by competitive bidding and a Federal entity retains primary allocation or protected status in those frequencies for a period of time after the completion of the competitive bidding process; and

`(E) the costs associated with the accelerated replacement of systems and equipment if such acceleration is necessary to ensure the timely relocation of systems to a new

frequency assignment.

`(4) NOTICE TO COMMISSION OF ESTIMATED RELOCATION COSTS-

`(A) The Commission shall notify the NTIA at least 18 months prior to the commencement of any auction of eligible frequencies defined in paragraph (2).

At

least 6 months prior to the commencement of any such auction, the NTIA, on behalf

of the Federal entities and after review by the Office of Management and Budget, shall notify the Commission of estimated relocation costs and timelines for such relocation.

`(B) Upon timely request of a Federal entity, the NTIA shall provide such entity with

information regarding an alternative frequency assignment or assignments to which

their radiocommunications operations could be relocated for purposes of calculating

the estimated relocation costs and timelines to be submitted to the Commission pursuant to subparagraph (A).

`(C) To the extent practicable and consistent with national security considerations, the

NTIA shall provide the information required by subparagraphs (A) and (B) by the geographic location of the Federal entities' facilities or systems and the frequency bands used by such facilities or systems.

`(5) NOTICE TO CONGRESSIONAL COMMITTEES AND GAO- The NTIA shall, at the

time of providing an initial estimate of relocation costs to the Commission under paragraph

(4)(A), submit to Committees on Appropriations and Energy and Commerce of the House

of Representatives for approval, to the Committees on Appropriations and Commerce,

Science, and Transportation of the Senate for approval, and to the Comptroller General a

copy of such estimate and the timelines for relocation. Unless disapproved within 30 days,

the estimate shall be approved. If disapproved, the NTIA may resubmit a revised initial

estimate.

`(6) IMPLEMENTATION OF PROCEDURES- The NTIA shall take such actions as

necessary to ensure the timely relocation of Federal entities' spectrum-related operations

from frequencies defined in paragraph (2) to frequencies or facilities of comparable

capability. Upon a finding by the NTIA that a Federal entity has achieved comparable

capability of systems by relocating to a new frequency assignment or by utilizing an alternative technology, the NTIA shall terminate the entity's authorization and notify the Commission that the entity's relocation has been completed. The NTIA shall also terminate such entity's authorization if the NTIA determines that the entity has unreasonably failed to comply with the timeline for relocation submitted by the Director of the Office of Management and Budget under section 118(d)(2)(B).'

SEC. 203. MINIMUM AUCTION RECEIPTS AND DISPOSITION OF PROCEEDS.

(a) AUCTION DESIGN- Section 309(j)(3) of the Communications Act of 1934 (47 U.S.C. 309(j)

(3)) is amended--

(1) by striking 'and' at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting `; and'; and

(3) by adding at the end the following new subparagraph:

`(F) for any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47

U.S.C. 923(g)(2)), the recovery of 110 percent of estimated relocation costs as provided to the Commission pursuant to section 113(g)(4) of such Act.'

(b) SPECIAL AUCTION PROVISIONS FOR ELIGIBLE FREQUENCIES- Section 309(j) of

such Act is further amended by adding at the end the following new paragraph:

`(15) SPECIAL AUCTION PROVISIONS FOR ELIGIBLE FREQUENCIES-

`(A) SPECIAL REGULATIONS- The Commission shall revise the regulations prescribed under paragraph (4)(F) of this subsection to prescribe methods by which

the total cash proceeds from any auction of eligible frequencies described in section

113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall at least equal 110 percent of the total

estimated relocation costs provided to the Commission pursuant to section 113(g)(4)

of such Act.

`(B) CONCLUSION OF AUCTIONS CONTINGENT ON MINIMUM PROCEEDS

The Commission shall not conclude any auction of eligible frequencies described in section 113(g)(2) of such Act if the total cash proceeds attributable to such spectrum

are less than 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g)(4) of such Act. If the Commission is unable

to conclude an auction for the foregoing reason, the Commission shall cancel the auction, return within 45 days after the auction cancellation date any deposits from

participating bidders held in escrow, and absolve such bidders from any obligation to

the United States to bid in any subsequent reacution of such spectrum.

`(C) AUTHORITY TO ISSUE PRIOR TO DEAUTHORIZATION- In any auction conducted under the regulations required by subparagraph (A), the Commission may

grant a license assigned for the use of eligible frequencies prior to the termination of

an eligible Federal entity's authorization. However, the Commission shall condition

such license by requiring that the licensee cannot cause harmful interference to such

Federal entity until such entity's authorization has been terminated by the National

Telecommunications and Information Administration.'.

(c) DEPOSIT OF PROCEEDS- Paragraph (8) of section 309(j) of the Communications Act of

1934 (47 U.S.C. 309(j)) is amended--

(1) in subparagraph (A), by inserting `or subparagraph (D)' after `subparagraph (B)'; and

(2) by adding at the end the following new subparagraph:

`(D) DISPOSITION OF CASH PROCEEDS- Cash proceeds attributable to the auction of any eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall be deposited in the Spectrum Relocation Fund established under section 118 of such Act, and shall be available in accordance with that section.'.

SEC. 204. ESTABLISHMENT OF FUND AND PROCEDURES.

Part B of the National Telecommunications and Information Administration Organization Act is

amended by adding after section 117 (47 U.S.C. 927) the following new section:

`SEC. 118. SPECTRUM RELOCATION FUND.

`(a) ESTABLISHMENT OF SPECTRUM RELOCATION FUND- There is established on the

books of the Treasury a separate fund to be known as the `Spectrum Relocation Fund' (in this

section referred to as the `Fund'), which shall be administered by the Office of Management and

Budget (in this section referred to as `OMB'), in consultation with the NTIA.

`(b) CREDITING OF RECEIPTS- The Fund shall be credited with the amounts specified in

section 309(j)(8)(D) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)).

`(c) USED TO PAY RELOCATION COSTS- The amounts in the Fund from auctions of eligible

frequencies are authorized to be used to pay relocation costs, as defined in section 113(g)(3) of this Act, of an eligible Federal entity incurring such costs with respect to relocation from those frequencies.

`(d) FUND AVAILABILITY-

`(1) APPROPRIATION- There are hereby appropriated from the Fund such sums as are required to pay the relocation costs specified in subsection (c).

`(2) TRANSFER CONDITIONS- None of the funds provided under this subsection may be

transferred to any eligible Federal entity--

`(A) unless the Director of OMB has determined, in consultation with the NTIA, the

appropriateness of such costs and the timeline for relocation; and

`(B) until 30 days after the Director of OMB has submitted to the Committees on Appropriations and Energy and Commerce of the House of Representatives for approval, to the Committees on Appropriations and Commerce, Science, and Transportation of the Senate for approval, and to the Comptroller General a detailed

plan describing specifically how the sums transferred from the Fund will be used to

pay relocation costs in accordance with such subsection and the timeline for such relocation.

Unless disapproved within 30 days, the amounts in the Fund shall be available immediately.

If the plan is disapproved, the Director may resubmit a revised plan.

`(3) REVERSION OF UNUSED FUNDS- Any auction proceeds in the Fund that are

remaining after the payment of the relocation costs that are payable from the Fund shall

revert to and be deposited in the general fund of the Treasury not later than 8 years after the

date of the deposit of such proceeds to the Fund.

`(e) TRANSFER TO ELIGIBLE FEDERAL ENTITIES-

`(1) TRANSFER-

`(A) Amounts made available pursuant to subsection (d) shall be transferred to eligible Federal entities, as defined in section 113(g)(1) of this Act.

`(B) An eligible Federal entity may receive more than one such transfer, but if the sum of the subsequent transfer or transfers exceeds 10 percent of the original transfer-

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`(i) such subsequent transfers are subject to prior approval by the Director of OMB as required by subsection (d)(2)(A);

`(ii) the notice to the committees containing the plan required by subsection (d)

(2)(B) shall be not less than 45 days prior to the date of the transfer that causes such excess above 10 percent;

`(iii) such notice shall include, in addition to such plan, an explanation of need for such subsequent transfer or transfers; and

`(iv) the Comptroller General shall, within 30 days after receiving such plan, review such plan and submit to such committees an assessment of the explanation for the subsequent transfer or transfers.

`(C) Such transferred amounts shall be credited to the appropriations account of the

eligible Federal entity which has incurred, or will incur, such costs, and shall, subject

to paragraph (2), remain available until expended.

`(2) RETRANSFER TO FUND- An eligible Federal entity that has received such amounts

shall report its expenditures to OMB and shall transfer any amounts in excess of actual

relocation costs back to the Fund immediately after the NTIA has notified the Commission

that the entity's relocation is complete, or has determined that such entity has unreasonably

failed to complete such relocation in accordance with the timeline required by subsection

(d)(2)(A).'

SEC. 205. TELECOMMUNICATIONS DEVELOPMENT FUND.

Section 714(f) of the Communications Act of 1934 (47 U.S.C. 614(f)) is amended to read as

follows:

`(f) LENDING AND CREDIT OPERATIONS- Loans or other extensions of credit from the Fund

shall be made available to an eligible small business on the basis of--

`(1) the analysis of the business plan of the eligible small business;

`(2) the reasonable availability of collateral to secure the loan or credit extension;

`(3) the extent to which the loan or credit extension promotes the purposes of this section;

and

`(4) other lending policies as defined by the Board.'

SEC. 206. CONSTRUCTION.

Nothing in this title is intended to modify section 1062(b) of the National Defense Authorization

Act for Fiscal Year 2000 (Public Law 106-65).

SEC. 207. ANNUAL REPORT.

The National Telecommunications and Information Administration shall submit an annual report

to the Committees on Appropriations and Energy and Commerce of the House of Representatives,

the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Comptroller General on--

(1) the progress made in adhering to the timelines applicable to relocation from eligible

frequencies required under section 118(d)(2)(A) of the National Telecommunications and

Information Administration Organization Act, separately stated on a communication

system-by-system basis and on an auction-by-auction basis; and

(2) with respect to each relocated communication system and auction, a statement of the

estimate of relocation costs required under section 113(g)(4) of such Act, the actual

relocations costs incurred, and the amount of such costs paid from the Spectrum Relocation

Fund.

SEC. 208. PRESERVATION OF AUTHORITY; NTIA REPORT REQUIRED.

(a) SPECTRUM MANAGEMENT AUTHORITY RETAINED- Except as provided with respect

to the bands of frequencies identified in section 113(g)(2)(A) of the National Telecommunications

and Information Administration Organization Act (47 U.S.C. 923(g)(2)(A)) as amended by this

title, nothing in this title or the amendments made by this title shall be construed as limiting the

Federal Communications Commission's authority to allocate bands of frequencies that are

reallocated from Federal use to non-Federal use for unlicensed, public safety, shared, or noncommercial

use.

(b) NTIA REPORT REQUIRED- Within 1 year after the date of enactment of this Act, the

Administrator of the National Telecommunications and Information Administration shall submit

to the Energy and Commerce Committee of the House of Representatives and the Commerce,

Science, and Transportation Committee of the Senate a report on various policy options to

compensate Federal entities for relocation costs when such entities' frequencies are allocated by

the Commission for unlicensed, public safety, shared, or non-commercial use.

SEC. 209. COMMERCIAL SPECTRUM LICENSE POLICY REVIEW.

(a) EXAMINATION- The Comptroller General shall examine national commercial spectrum

license policy as implemented by the Federal Communications Commission, and shall report its

findings to the Senate Committee on Commerce, Science, and Transportation and the House of

Representatives Committee on Energy and Commerce within 270 days.

(b) CONTENT- The report shall address each of the following:

(1) An estimate of the respective proportions of electromagnetic spectrum capacity that

have been assigned by the Federal Communications Commission--

(A) prior to enactment of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) providing to the Commission's competitive bidding authority,

(B) after enactment of that section using the Commission's competitive bidding authority, and

(C) by means other than competitive bidding,

and a description of the classes of licensees assigned under each method.

(2) The extent to which requiring entities to obtain licenses through competitive bidding

places those entities at a competitive or financial disadvantage to offer services similar to

entities that did not acquire licenses through competitive bidding.

(3) The effect, if any, of the use of competitive bidding and the resulting diversion of

licensees' financial resources on the introduction of new services including the quality,

pace, and scope of the offering of such services to the public.

(4) The effect, if any, of participation in competitive bidding by incumbent spectrum license

holders as applicants or investors in an applicant, including a discussion of any additional

effect if such applicant qualified for bidding credits as a designated entity.

(5) The effect on existing license holders and consumers of services offered by these

providers of the Administration's Spectrum License User Fee proposal contained in the

President's Budget of the United States Government for Fiscal Year 2004

(Budget, page

299; Appendix, page 1046), and an evaluation of whether the enactment of this proposal

could address, either in part or in whole, any possible competitive disadvantages described

in paragraph (2).

(c) FCC ASSISTANCE- The Federal Communications Commission shall provide information and

assistance, as necessary, to facilitate the completion of the examination required by subsection (a).

TITLE III--UNIVERSAL SERVICE

SEC. 301. SHORT TITLE.

This title may be cited as the `Universal Service Antideficiency Temporary Suspension Act'.

SEC. 302. APPLICATION OF CERTAIN TITLE 31 PROVISIONS TO UNIVERSAL SERVICE FUND.

(a) IN GENERAL- During the period beginning on the date of enactment of this Act and ending on December 31, 2005, section 1341 and subchapter II of chapter 15 of title 31, United States

Code, do not apply--

(1) to any amount collected or received as Federal universal service contributions required

by section 254 of the Communications Act of 1934 (47 U.S.C. 254), including any interest

earned on such contributions; nor

(2) to the expenditure or obligation of amounts attributable to such contributions for

universal service support programs established pursuant to that section.

(b) Post-2005 Fulfillment of Protected Obligations- Section 1341 and subchapter II of chapter 15

of title 31, United States Code, do not apply after December 31, 2005, to an expenditure or

obligation described in subsection (a)(2) made or authorized during the period described in

subsection (a).

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

END